

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4

FISHERIES

PART II MARINE FISHERIES MANAGEMENT AREAS

CHAPTER 60.3

WEST HAWAII REGIONAL FISHERIES MANAGEMENT AREA, HAWAII

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§13-60.3-1 Definitions. As used in this chapter unless otherwise provided:

"Aquarium-collecting gear" means any equipment or gear used to collect aquarium fish or animals including but not limited to hand nets, fence or barrier nets, fiberglass or metal 'tickle sticks', catch buckets, keeps or baskets.

"Aquarium purpose" means to hold salt water fish, fresh water nongame fish, or other aquatic life alive in a state of captivity as pets, for scientific study or for public exhibition or display, or for sale for

these purposes. Salt water fish, fresh water nongame fish, or other aquatic life held alive in a state of captivity as food for human consumption shall not be considered as aquarium purpose.

"Aquarium-collecting vessel" means any motorized or non-motorized vessel used by any person to collect, ferry, or scout for aquarium fish or animals.

"Department" means the department of land and natural resources.

"Fish feeding" means deliberately introducing any food material, substance or device used as an attractant, directly to or in the vicinity of any marine life, by any means, for any purpose except the purpose of catching and removing that marine life.

"Kealakekua Bay Marine Life Conservation District" means that area designated by Chapter 29, Hawaii Administrative Rules.

"Keauhou Fisheries Management Area" means that area designated by Chapter 57, Hawaii Administrative Rules.

"Kona Coast Fisheries Management Area" means those areas designated by Chapter 58, Hawaii Administrative Rules.

"Landward boundary" means an imaginary line drawn along the highwater mark on shore between the landward northern point and the landward southern point.

"Lay net" means a panel or panels of net mesh made of various materials that is suspended vertically in the water with the aid of a float line that supports the top edge of the net upwards towards the water surface and opposite to a lead line that keeps the bottom edge of the net downward towards the ocean floor.

"Lay net fishing" means a method of fishing where a person or persons engage in the act of or attempt to engage in the act of deploying a lay net in the water in a specific location, then retrieving the lay net from the same location, after a certain time period has passed to allow for the capture of aquatic life. The lay net primarily entangles aquatic life within the mesh of the net as the aquatic life swim or move into the stationary lay net. The lay net is most commonly deployed in a straight line or semi-circle configuration. The main characteristics of the lay net fishing method are the open net configuration and the stationary net. This fishing method is also known as set netting, cross netting, *pa'ipa'i*, and *moemoe* netting.

"Management area" means the West Hawaii regional fisheries management area.

"Natural fibers" means fibers derived wholly from plant materials such as, but not limited to, olona, linen, cotton, hemp, and sisal.

"Northern boundary" means an imaginary straight line drawn between the landward northern point and the seaward northern point.

"Puako Bay and Puako Reef fisheries management area" means that area designated by Chapter 54, Hawaii Administrative Rules.

"Seaward boundary" means an imaginary straight line drawn between the seaward northern point and the seaward southern point.

"Southern boundary" means an imaginary straight line drawn between the landward southern point and the seaward southern point.

"Take" means to fish for, catch, or harvest, or to attempt to fish for, catch, or harvest, aquatic life. The use of any gear, equipment, tool, or any means to fish for, catch, capture, or harvest, or to attempt to fish for, catch, capture, or harvest, aquatic life by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be fished for, caught, or harvested, shall be construed as taking. [Eff 12/31/99; am and comp **AUG 01 2005**] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6)

§13-60.3-2 Intent and purpose. (a) The intent and purpose of this chapter shall be as described in sections 188F-2 and 188F-3, Hawaii Revised Statutes.

(b) For the purposes of this chapter, the fish replenishment areas, as described in section 188F-4, Hawaii Revised Statutes, shall be known as fishery management areas, marine life conservation districts, or as may be otherwise designated, to be consistent with other area designations.

(c) Native Hawaiian (Kanaka Maoli) traditional and customary rights with regard to marine resources for subsistence, cultural, and religious purposes are recognized. Claims for traditional and customary rights will be decided by appropriate agencies when such a procedure is established. [Eff 12/31/1999; am and comp **AUG 01 2005**] (Auth: HRS §§187A-5, 188-53, 188F-2, 188F-3, 188F-4, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6)

§13-60.3-3 General conditions. (a) Unless otherwise authorized by law, it is unlawful for any

person to engage in or attempt to engage in fish feeding in any area designated in this chapter, including the Lapakahi Marine Life Conservation District, the Wailea Bay Marine Life Conservation District, the Old Kona Airport Marine Life Conservation District, the Kealahou Bay Marine Life Conservation District, Puako Bay and Puako Reef fisheries management areas, Kiholo Bay fisheries management areas, Kailua Bay fisheries management areas, and Keauhou Bay fisheries management areas.

(b) Unless otherwise specified, the seaward boundary of any area designated in this chapter shall be to a depth of 100 fathoms (600 feet).

(c) Unless otherwise specified, the landward boundary of any area designated in this chapter shall be the highwater mark on shore. Should there be a stream or river flowing into the ocean, the landward boundary shall be an imaginary straight line drawn between the highwater marks on either side of the stream or river, as if the stream or river was not there.

(d) Unless otherwise provided, any area designated in this chapter shall be bounded by four points further identified by their latitude and longitude coordinates. A table of the areas with their corresponding latitude and longitude coordinates is provided at the end of this chapter, entitled "Fisheries Management Area Boundaries", dated September 24, 2003. The four points shall be the landward northern point, the landward southern point, the seaward northern point, and the seaward southern point. Imaginary lines drawn between these four points shall be known as the landward, seaward, northern, and southern boundaries. Any area designated in this chapter shall include the submerged lands and overlying waters within these four boundaries.

(e) The department may further identify the landward northern point and the landward southern point by signs posted on land to aid in the location of these points.

(f) Nothing in this chapter shall be construed as allowing within the management area any activity otherwise prohibited by law or rules adopted by another department of the state. [Eff 12/31/99; am and comp **AUG 01 2005**] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6)

§13-60.3-4 Aquarium fisheries. (a) Unless otherwise authorized by law, it is unlawful for any

person taking aquatic life for aquarium purposes within the management area to:

- (1) For commercial purposes, possess aquarium-collecting gear or collected marine life or both on-board any aquarium-collecting vessel without holding a valid aquarium permit and commercial marine license;
 - (2) For commercial purposes, possess aquarium-collecting gear or take or possess marine life taken with such gear while on an unregistered aquarium-collecting vessel;
 - (3) Take aquatic life for aquarium purposes between sunset and sunrise.
- (b) Unless otherwise authorized by law, all aquarium-fishing vessels shall:
- (1) Register the vessel with the department to take marine life for aquarium purposes within the management area. The current vessel identification number issued by either the department or the United States Coast Guard shall serve as the registration number for such vessels;
 - (2) Clearly display the capital letters "AQ" on both sides of the vessel, either near the top of the gunwales or on the superstructure. Unless otherwise specified, the "AQ" letters shall be no less than six (6) inches high and three (3) inches wide in either black or a contrasting color to the background;
 - (3) Fly a "stiffened" flag or pennant from the vessel with the letter "A" as specified by the department. The flag or pennant shall be provided at cost to aquarium permittees as specified by the department. The flag or pennant shall be displayed and clearly visible from both sides of the vessel whenever aquarium-collecting gear or collected aquarium marine life or both are on-board;
 - (4) Display of a dive flag at all times when divers are in the water.
- (c) Unless otherwise authorized by law, it is unlawful for an aquarium-collecting vessel and persons on-board the aquarium-collecting vessel to:
- (1) Be adrift, anchored, or moored within any area prohibiting aquarium collecting while possessing aquarium-collecting gear or possessing any marine life taken with such gear. A vessel may transit through such areas with aquarium-collecting gear or marine

life taken with collecting gear or both; provided that no collecting gear is in the water during transit.

(d) In the event an aquarium-collecting vessel becomes inoperable in the management area, the operator of the vessel shall immediately notify the department's division of conservation and resources enforcement or United States Coast Guard or both by VHF radio or by cellular phone or both.

(e) Control date. There is established a control date to give prior notice of intent to possibly limit participation in the West Hawaii Regional Fisheries Management Area (WHRFMA) commercial aquarium fishery. Persons who begin fishing in the WHRFMA commercial aquarium fishery on or after the control date will not be assured continued participation if the department establishes an aquarium limited entry program in the future. The control date will be the original effective date of this section.

(f) Nothing in this chapter shall require the department to establish an aquarium limited entry program in the future nor does it prevent the department from establishing another control date.
[Eff AUG 01 2005] (Auth: HRS §§187A-5, 188-53, 188F-6)
6) (Imp: HRS §§187A-5, 188-53, 188F-3)

§13-60.3-5 Lay nets. (a) It is unlawful for any person on or about the water to:

- (1) Possess or use a lay net that has not been registered with the department;
- (2) Possess or use more than one lay net;
- (3) Possess or use a lay net:
 - A. longer than 125 feet in length or more than seven feet in stretched height;
 - B. with less than two and three-fourths inches stretched mesh; and in Kailua Bay fisheries management area, with less than three inches stretched mesh; and
 - C. with two or more joined lay nets with a combined total length of more than 250 feet.
- (4) Possess or use a multi-panel net;
- (5) Possess or use a lay net that does not have at least four identification tags as specified or provided by the department. One identification tag must be attached at each end of both the net float line and the net lead line for a total of four attachment points on each lay net;

(b) It is unlawful for any person lay net fishing to:

- (1) Use a lay net that is not marked by buoys as specified or provided by the department. The buoys shall display the lay net registration number, be marked with reflective tape, and visible above the surface of the water. The buoys shall be attached to each end of the float line for a total of two buoys for each lay net.
- (2) Use a lay net within 1,2000 feet of any other lay net; provided that two or more individuals working together and using the lay net fishing method may use a joined net;
- (3) Use a lay net in water that is more than 80 feet in depth;
- (4) Use a lay net for more than four hours during any one set; provided further that after the one set, the same lay net may not be set again within twenty-four hours after the ending of the set;
- (5) Leave a lay net unattended for more than one-half hour;
- (6) Retrieve a lay net in such a manner as to cause coral to break either from its attachment to the bottom or into smaller pieces. Any coral brought to the surface in the net shall be considered as a violation of this section.
- (7) Fail to complete inspection of an entire lay net within two hours after the beginning of the set. The person lay net fishing shall inspect the lay net and release any threatened, endangered, prohibited, or unwanted species;
- (8) Discard, abandon, or leave, any lay net, or portion thereof, in the water for longer than four hours;

(c) It is unlawful for any person to falsely identify, with identification tags, any lay net that is not registered with the department as required in subsections (a)(5) and (a)(1) respectively.

(d) Persons using a vessel or float may use a total maximum of 250 feet of lay net, provided that at least two persons are associated with the same vessel or float.

(e) Should any registered lay net be lost, destroyed, sold, traded, stolen, given away, or otherwise no longer the property of, or no longer in the possession of the registered owner, then the

registered owner shall be responsible for the lay net until a report is filed and confirmed by the department.

(f) Any lay net on or about the water that is not registered or does not have proper identification tags, as required in subsections (a)(1) and (a)(5), shall be considered contraband and subject to immediate seizure by the department.

(g) It is unlawful for any person to lay net fish in the following areas as provided in the table at the end of this chapter, entitled "Fisheries Management Area Boundaries," dated September 24, 2003;

- (1) Puako-'Anaeho'omalu Fisheries Management Area;
- (2) Ka'upulehu Fisheries Management Area;
- (3) Makolea to Kalae o Kikaua (Kekaha Kai State Park);
- (4) Nenu Point (Red Hill Fisheries Management Area) - Kealahou Bay Marine Life Conservation District;
- (5) Hanamalo Point to Kanewa'a Point, South Kona; and
- (6) Kanonohe to Kalipoa, Ka'u.

(h) Special netting rules apply in the following areas:

- (1) A person shall lay net fish or net akule (all methods) at Kaloko-Honokohau National Historical Park Fisheries Management Area using only a locally constructed, handmade net of natural fibers subject to the provisions of subsections (a) - (g).
- (2) No netting area at Keauhou Bay (excepting throw nets) is extended from present FMA boundaries to Kaula Point and Haiku'ua Point. [Eff AUG 01 2005] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6).

§13-60.3-6 Penalty. Any person violating the provisions of this chapter, or the terms and conditions of any permit issued as provided by this chapter, shall be punished as provided by sections 187A-12.5 and 188-70, Hawaii Revised Statutes, or a may be otherwise provided by law. [Eff 12/31/99; ren AUG 01 2005] (Auth: HRS §§187A-12.5, 188-70) (Imp: HRS §§187A-12.5, 188-70)

§13-60.3-7 Severability. If any provision of this chapter, or the application thereof, to any person or circumstance is held invalid, the invalidity does

not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff 12/31/99; ren **AUG 01 2005**] (Auth: HRS §§1-23, 187A-5, 188-53, HRS 188F-6) (Imp: HRS §§1-23, 187A-5, 188-53, 188F-6)

§13-60.3-13 North Kohala fisheries management area. The North Kohala fisheries management area shall be identified on shore to the north by Kamilo Gulch and to the south by the Kawaihae Lighthouse. [Eff 12/31/99; ren **AUG 01 2005**] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6)

§13-60.3-14 Puako-'Anaeho'omalu fisheries management area. The Puako-'Anaeho'omalu fisheries management area shall be identified on shore to the north by the southern end of the Puako Bay and Puako Reef Fisheries Management Area and to the south by the southern side of 'Anaeho'omalu Bay (Kapalaoa). [Eff 12/31/99; ren **AUG 01 2005**] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6)

§13-60.3-15 Ka'upulehu fisheries management area. The Ka'upulehu fisheries management area shall be identified on shore to the north by the northern boundary of the Ka'upulehu ahupua'a and to the south by the southern side of Kalae O Kikaua (Kuki'o Bay). [Eff 12/31/99; ren **AUG 01 2005**] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6)

§13-60.3-16 Kaloko-Honokohau fisheries management area. The Kaloko-Honokohau fisheries management area shall be identified on shore to the north by the southern boundary of Wawaloli Zone (Kona Coast Fisheries Management Area) at Wawahiwa'a Point and to the south by Noio Point. [Eff 12/31/99; ren **AUG 01 2005**] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6)

§13-60.3-17 Kailua-Keaouhou fisheries management area. The Kailua-Keaouhou fisheries management area shall be identified on shore to the north by the southern boundary of Kailua Bay Zone, Kona Coast Fisheries Management Area and to the south by the northern boundary of Keaouhou Fisheries Management Area.

[Eff 12/31/99; ren **AUG 01 2005**] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6)

§13-60.3-18 Red Hill fisheries management area.
The Red Hill fisheries management area shall be identified on shore to the north at Nenu Point and to the south by Keawekaheka Point. [Eff 12/31/99; ren **AUG 01 2005**] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6)

§13-60.3-19 Napo'opo'o-Honaunau fisheries management area. (a) The Napo'opo'o-Honaunau fisheries management area shall be identified on shore to the north by the southern boundary of Kealakekua Bay marine life conservation district (Manini Point) and to the south by the southern boundary of Pu'uhonua O Honaunau (Ki'ilae). [Eff 12/31/99; ren **AUG 01 2005**] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6)

§13-60.3-20 Ho'okena fisheries management area. The Ho'okena fisheries management area shall be identified on shore to the north by Loa Point and to the south by Ka'uloa Point. [Eff 12/31/99; ren **AUG 01 2005**] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6)

§13-60.3-21 Miloli'i fisheries management area.
The Miloli'i fisheries management area shall be identified on shore to the north by Makahiki Point and to the south by Kakio Point. [Eff 12/31/99; ren **AUG 01 2005**] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6)

Fisheries Management Area Boundaries

September 24, 2003

Location	Landward dGPS Coordinates		Seaward dGPS Coordinates (600 ft.)			
	Northern Point	Southern Point	Northern Point	D (nm)	Southern Point	D (nm) @
North Kohala	20° 04.826' N	20° 02.471' N	20° 04.378' N	1.40	20° 01.654' N	1.94 225°
	155° 51.934' W	155° 49.988' N	155° 53.344' W		155° 51.875' W	225°
Puako - 'Anaeho'omalu	19° 57.529' N	19° 54.641' N	19° 59.206' N	2.40	19° 57.034' N	3.54 300°
	155° 51.553' W	155° 53.893' W	155° 53.383' W		155° 56.658' W	300°
Ka'upulehu	19° 51.011' N	19° 49.209' N	19° 53.817' N	3.91	19° 51.724' N	4.39 300°
	155° 58.111' W	156° 00.132' W	156° 00.994' W		156° 03.947' W	300°
Kalae o Kikaua - Makolea	19° 49.130' N	19° 46.356' N	19° 52.100' N	4.41	19° 49.000' N	3.98 300°
	156° 00.063' W	156° 03.024' W	156° 03.566' W		156° 06.164' W	300°
Kaloko - Honokohau	19° 41.558' N	19° 40.059' N	19° 41.368' N	0.35	19° 39.844' N	0.46 240°
	156° 02.725' W	156° 01.741' W	156° 03.031' W		156° 02.169' W	240°
Kailua - Keauhou	19° 37.904' N	19° 33.716' N	19° 37.089' N	2.02	19° 32.801' N	2.21 245°
	155° 55.497' W	155° 57.829' W	156° 01.449' W		156° 00.004' W	245°
Red Hill	19° 30.823' N	19° 29.252' N	19° 30.166' N	1.41	19° 28.991' N	0.51 235°
	155° 57.630' W	155° 57.068' W	155° 58.953' W		155° 57.536' W	235°
Nenue Pt. - Kealahou Bay	19° 30.823' N	19° 28.699' N	19° 30.166' N	1.41	19° 28.316' N	0.90 235°
	155° 57.630' W	155° 56.114' W	155° 58.953' W		155° 56.983' W	235°
Napo'opo' - Honaunau	19° 28.230' N ¹	19° 24.559' N	19° 28.688' N ²	1.13	19° 24.725' N	0.79 270°
	155° 53.354' W	155° 54.343' W	155° 56.898' W		155° 55.162' W	270°
Ho'okena	19° 23.796' N	19° 19.458' N	19° 23.690' N	0.40	19° 19.403' N	0.25 240°
	155° 54.685' W	155° 53.426' W	155° 55.095' W		155° 53.688' W	240°
Miloli'i	19° 14.071' N	19° 08.098' N	19° 14.111' N	0.15	19° 08.160' N	0.36 270°
	155° 54.082' W	155° 55.132' W	155° 54.235' W		155° 55.510' W	270°
Hanamalo Pt. - Kanewa'a Pt.	19° 09.273' N	19° 07.091' N	19° 09.275' N	0.55	19° 07.093' N	0.18 260°
	155° 54.973' W	155° 55.115' W	155° 55.564' W		155° 55.313' W	260°
Kanonone - Kalipoa	19° 00.662' N	18° 58.180' N	19° 00.409' N	0.25	18° 57.941' N	0.24 200°
	155° 48.302' W	155° 44.182' W	155° 48.302' W		155° 44.183' W	200°
Haiku'ua Pt. - Kaukalaelae Pt.	19° 33.757' N	19° 33.587' N	NA ³	NA	NA	NA NA
	155° 57.916' W	155° 57.964' W	NA		NA	NA NA

^{1,2} Northern Boundary runs 0.25nm along existing Kealahou Bay MLCD southern boundary to 19° 28.443' N/155° 55.708' W and then 270° to seaward northern point.

³ Seaward boundary points not present. Seaward boundary runs between N and S landward points.

D (nm) = distance in nautical miles from the landward points to the seaward points

@ = compass heading from landward coordinates to seaward coordinates